

FACT SHEET

As required by LAC 33:IX.3111 for major LPDES dischargers, for draft Louisiana Pollutant Discharge Elimination System Permit No. LAG490000 to discharge to waters of the State of Louisiana as per LAC 33:IX.Chapter 31.

GENERAL PERMIT NO. LAG490000

AI 113969

PER20090001

GENERAL PERMIT FOR DISCHARGES RELATED TO EXTRACTION, MINING OR DREDGING OF DIRT, SAND, GRAVEL, SHELL AND SIMILAR MATERIALS

FACT SHEET FOR THE DRAFT LOUISIANA POLLUTANT DISCHARGE ELIMINATION SYSTEM (LPDES) PERMIT FOR DISCHARGES RELATED TO EXTRACTION, MINING OR DREDGING OF DIRT, SAND, GRAVEL, SHELL AND SIMILAR MATERIALS

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| Permit No. | LAG490000 |
| Issuing Office: | State of Louisiana Department of Environmental Quality Office of Environmental Services Water Permits Division |
| Prepared By: (LAC 33:IX.3111.B.7) | Linda Gauthier Municipal and General Permits Section Water Permits Division (225) 219-0801 |
| Permit Action: | Reissuance of a General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials |
| Date Prepared | April 20, 2009 |

I. ISSUANCE OF A GENERAL PERMIT (LAC 33:IX:2515)

The Office of Environmental Services, Water Permits Division, through its permitting system authorized under the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), is responsible for ensuring that certain sources of wastewaters and storm water are identified, receive adequate treatment, and are disposed of in accordance with applicable state regulations. In accordance with the "Memorandum of Agreement" between the State of Louisiana and the U.S. Environmental Protection Agency and LAC 33:IX.2301, et seq., the Department has the authority to administer the LPDES General Permits Program.

Under the authority of Section 402 of the Clean Water Act, 40 CFR 123.24, and LAC 33:IX.2515.A.2.b, a general permit can be used to cover a category of point sources other than storm water point sources, or a category of treatment works treating domestic sewage, if the sources or treatment works treating domestic sewage all:

1. involve the same or substantially similar types of operations;
2. discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
3. require the same effluent limitation or operating conditions, or standards for sewage sludge use or disposal;
4. require the same or similar monitoring; and
5. in the opinion of the state administrative authority, are more appropriately controlled under a general permit than under individual permits.

The general permit will authorize only discharges identified in Section B of the permit. This permit **shall not** apply to:

1. facilities that use hydrofluoric acid (HF floatation) in the separation process to produce industrial grade sand (those facilities must apply for an individual permit);
2. operations where a dragline is used to scoop buckets of sand and/or gravel from the river bed along a sand bar (those operations require site-specific pollution prevention practices and are therefore required to apply for an individual permit);
3. maintenance dredging of navigable waterways (that activity will be regulated under the Section 404 permit process);
4. facilities which discharge substances that are not addressed by pollution prevention plan requirements or would not be adequately regulated by the effluent limitations in this permit;
5. discharges that are mixed with other, non-covered discharge types unless those other discharges are in compliance with another LPDES permit;
6. discharges which have limits assigned to them in the Louisiana Water Quality Management Plan or by an approved Waste Load Allocation which are different from the limits contained in this permit;
7. discharges which are likely to have unauthorized adverse effects upon threatened or endangered species, or on the critical habitat for these species as determined in conjunction with the U.S. Fish and Wildlife Service (USFWS); *(Discharges into certain sensitive water bodies require coordination with the USFWS before being eligible for general permit coverage. The Guidance Document for Determining if Your Discharges Require Prior Coordination with the U.S. Fish and Wildlife Service*

attached to the NOI form gives details and instructions for initiating coordination with the USFWS.)

8. discharges which adversely affect properties listed or eligible for listing in the National Register of Historic Places, unless they are in compliance with requirements of the National Historic Preservation Act and any necessary activities to avoid or minimize impacts have been coordinated with the Louisiana State Historic Preservation Officer (*for questions, the operator should contact the Section 106 Review Coordinator, Office of Cultural Development, P. O. Box 44247, Baton Rouge, LA 70804 or telephone (225) 342-8170*);
9. discharges of wastewater determined by this Office to present an environmental risk or potential risk of discharging pollutants other than is intended to be regulated by this permit;
10. discharges directly into a waterbody designated as an outstanding natural resource water, as defined in LAC 33:IX.1123.Table 3, except in accordance with LAC 33:IX.1119.C.4; and
11. discharges from operations classed as new sources or new discharges if the discharge will cause or contribute to the violation of water quality standards not addressed by the terms, conditions and schedules of this general permit (LAC 33:IX.2317.A.9).

At the discretion of this Office, coverage under this general permit **may not** be available to discharges:

1. from facilities not in compliance with a previously issued individual or general wastewater discharge permit;
2. from facilities which have previously been in violation of state water quality regulations;
3. from facilities which are located in an environmentally sensitive area;
4. into water bodies designated by the State pursuant to Section 303(d) of the Clean Water Act;
5. into waters that are likely to contain threatened or endangered species; or
6. from facilities which owe any outstanding fees or fines to the Department.

The Department may deny coverage under this permit and require submittal of an application for an individual LPDES permit based on a review of the NOI or other information. This Office reserves the right to issue such facilities an individual LPDES permit with more appropriate limitations and conditions.

The state administrative authority may require any discharger authorized by a general permit to apply for and obtain an individual LPDES permit. Any interested person may petition the state administrative authority to require an individual permit in accordance

with LAC 33:IX.2515.B.3.a.i-vii. NOIs for all facilities requesting coverage under this general permit will be posted to LDEQ's public internet site. Likewise, all facilities authorized to discharge under this general permit will be posted on LDEQ's public internet site. Cases where an individual LPDES permit may be required include the following:

- i. the discharger or treatment works treating domestic sewage is not in compliance with the conditions of the general LPDES permit;
- ii. a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;
- iii. effluent limitation guidelines are promulgated for point sources covered by the general LPDES permit;
- iv. a water quality management plan containing requirements applicable to such point sources is approved;
- v. circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;
- vi. standards for sewage sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general LPDES permit; or
- vii. the discharge(s) is a significant contributor of pollutants. In making this determination, the state administrative authority may consider the following factors:
 - (a) the location of the discharge with respect to waters of the state;
 - (b) the size of the discharge;
 - (c) the quantity and nature of the pollutants discharged to waters of the state; and
 - (d) other relevant factors (such as, but not limited to, critical flow and harmonic mean flow determinations, environmental considerations, site operational data, designated uses, water quality characteristics and other applicable water quality and regulatory requirements).

The facilities covered under this general permit would be assigned identical effluent limitations and requirements if covered under an individual LPDES discharge permit based on facility type and size. Given the large number of facilities in Louisiana that extract, mine or dredge dirt, sand, gravel, shell and similar materials, LDEQ considers this general permit the most effective means by which to implement and enforce Louisiana's Water Quality Regulations efficiently, consistently and practically.

II. COVERED ACTIVITY (LAC 33:IX.3111.B.1,2)

This LPDES permit is being reissued and will replace the Louisiana Department of Environmental Quality (LDEQ) LPDES General Permit LAG490000 for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials. The permit was initially issued on September 7, 1999, and reissued on September 28, 2004.

The proposed permit shall cover discharges associated with the extraction of dirt, shell, sand and gravel from natural deposits. Examples of sources of discharges are dirt pits, pit-run operations, and the commercial excavation of shell or other natural resources. The current version of the general permit that was issued on September 28, 2004, regulated the following types of discharges, and the reissued permit will continue to regulate these discharges from facilities/operations that are deemed **eligible for coverage** under the general permit:

RLP 1 Outfall 001: process wastewater and process area storm water to designated scenic streams and their tributaries;

RLP 2 Outfall 002: process wastewater and process area storm water to primary contact recreation water bodies;

RLP 3 Outfall 003: process wastewater and process area storm water to receiving streams and their tributaries not designated as scenic streams or as primary contact recreation water bodies;

RLP 4 Outfall 004: treated sanitary wastewater (less than 5,000 GPD); and

RLP 5 Outfall 005: storm water runoff from auxiliary process areas.

In addition, the following systems are regulated by this permit:

RLP 6 Outfall 006: process wastewater and process area storm water contained in "closed loop" or "no discharge" systems.

40 CFR 122.3(b) states that the discharge of dredged or fill material into waters of the United States which is regulated under Section 404 of the CWA does not require an NPDES permit. LAC 33:IX.2301.B states that any requirements that are not within the scope of coverage of the NPDES program may be applied and enforced as "state-only requirements." Pursuant to LAC 33:IX.301.B, C.7 and 2301.B, commercial dredging of shell or other natural resources permitted under Section 404 of the CWA are regulated under the LWDPs program. In lieu of issuing individual permit for discharges from other activities eligible for coverage under this general permit and permitted under Section 404 of the CWA, discharges from those operations or facilities will be permitted under this general permit and the terms and conditions of this general permit are applicable to those discharges as "state-only requirements".

The permit states that clearing, grubbing and excavation that are being conducted as part of the exploration and construction phase of a mining operation are considered construction activities that require a separate LPDES permit. The permit discusses the two LPDES general permits for storm water discharges from construction activities and gives the LPDEQ web site address where copies of the construction permits and NOI (where applicable) are located.

Notice of Intent to be covered under this general permit shall be made using Form SCC-3 or an approved equivalent, which can be downloaded from the LDEQ Internet web site at <http://www.deq.louisiana.gov/portal>. The NOI shall be submitted to the Office of Environmental Services, Water Permits Division. After review of the submitted information, this Office will issue written notification to those applicants who are accepted for coverage under this general permit.

If determined appropriate by the agency, operators may be authorized under this permit after submittal of an alternate NOI/application form. These eligible applicants will be covered upon issuance of a permit authorization number and authorization letter by the Water Permits Division.

Discharges covered by this permit are limited to:

RLP 1 Outfall 001: process wastewater and process area storm water to designated scenic streams and their tributaries;

RLP 2 Outfall 002: process wastewater and process area storm water to primary contact recreation water bodies;

RLP 3 Outfall 003: process wastewater and process area storm water to receiving streams and their tributaries not designated as scenic streams or as primary contact recreation water bodies;

RLP 4 Outfall 004: treated sanitary wastewater (less than 5,000 GPD); and

RLP 5 Outfall 005: storm water runoff from auxiliary process areas.

In addition, the following systems are regulated by this permit:

RLP 6 Outfall 006: process wastewater and process area storm water contained in "closed loop" or "no discharge" systems.

III. OBTAINING COVERAGE

Dischargers desiring coverage under this general permit must submit a Notice of Intent (NOI) using Form SCC-3, or an equivalent, which may be obtained from the LDEQ web page at <http://www.deq.state.louisiana.gov/portal/> - INFO ABOUT Water - Permits - LPDES Permits, Information, and Applications or by calling the LDEQ Customer Service Center at (225) 219-5337. Proposed facilities desiring coverage under this permit must submit an NOI at least sixty (60) days prior to commencement of discharge. After

review of the submitted information, this Office will issue written notification to those applicants who are accepted for coverage under this general permit. If a facility regulated by this general permit is discharging and those discharges have not been permitted, an NOI shall be submitted immediately.

If circumstances change in the future at a permitted facility that result in the addition or elimination of permitted outfalls, or a change in the composition of effluent from a permitted outfall, the permittee is required to notify the Water Permits Division in writing of the elimination/change of any outfalls that were identified in the NOI or the addition of outfalls that were not identified in the NOI that was submitted for general permit coverage. Notification of the addition or elimination/change of permitted outfalls, or a change in the composition of effluent from a permitted outfall, must be made in writing and must be accompanied by a site diagram that clearly illustrates and identifies current outfall locations at the site.

The permittee is required to submit a permit transfer request to the Permit Support Services either prior to or no later than 45 days after the permitted facility changes ownership/operator. The request must be made on the official LDEQ form NOC-1 which is available on the LDEQ website at: [www.deq.louisiana.gov/portal/- PROGRAMS – Small Business/Small Community Assistance SB/SCAP/- Forms and Publications – Forms – Name/Operator/Owner Change Form](http://www.deq.louisiana.gov/portal/-PROGRAMS-Small-Business/Small-Community-Assistance-SB/SCAP/-Forms-and-Publications-Forms-Name/Operator/Owner-Change-Form). Any questions related to making a permit transfer should be directed to the LDEQ Application Verification Group at (225) 219-3292.

A printed hard copy of this permit may be obtained by contacting the LDEQ Water Permits Division at (225) 219-3181, or a copy can be downloaded from the LDEQ website at www.deq.louisiana.gov/portal/. Go through the following links to find the permit: INFO ABOUT Water – Permits – LPDES Permits, Information, and Applications – LPDES General Permits – LAG490000.

Dischargers who are currently permitted under the LPDES version of this permit that expires on September 30, 2009, are not required to submit a new NOI. Provided the applicability requirements of the reissued permit are met, these permitted dischargers will be automatically covered under the reissued LPDES permit. Notification of coverage and a copy of the permit will be sent to each permittee after permit finalization. Permit conditions in the reissued permit are effective for these automatically-authorized permittees three (3) days after the postmark date of the notification of the facility's coverage under the reissued general permit.

During the reauthorization process, Water Permits Division staff members will evaluate each existing authorization under the general permit to assess the reasonable potential for the discharge of pollutants from the facility to cause or contribute to a violation of water quality standards for any known parameters. The evaluation will include checking the basin subsegment numbers to ascertain that no currently permitted dischargers are discharging directly to a waterbody designated as an outstanding natural resource water. Any currently permitted facility that is identified as discharging directly to an outstanding natural resource water will be notified of its options to maintain permit

coverage:

- (1) provide data to the Water Permits Division to show that the discharges from the facility are not causing degradation as defined in LAC 33:IX.1119.C.4;
- (2) reroute the discharges to prevent discharges from "directly" entering the waterbody; or
- (3) submit an individual permit application to determine if the facility can be permitted under an individual LPDES permit with more appropriate limitations or conditions.

Any permittee covered by an individual permit may request that the individual permit be canceled if the permitted source or activity is also accepted for coverage by this general permit. Permit coverage under this general permit will become effective upon the date of written notification from the Water Permits Division that the individual permit has been canceled.

This Office will send a copy of the general permit to the permitted facility along with a cover letter from the Water Permits Division acknowledging that the facility has been accepted for coverage under the general permit. That letter will contain a permit authorization number that the facility will use on all records and reports associated with the facility. In accordance with Permit *Other Conditions*, Sections M and S, the LDEQ may, upon review of the NOI or at a later date, take measures to prohibit any discharge that is not protective of state water quality standards.

IV. DISCHARGE DESCRIPTION (LAC 33:IX.3111.B.2)

This permit **shall not** apply to:

1. facilities that use hydrofluoric acid (HF floatation) in the separation process to produce industrial grade sand (those facilities must apply for an individual permit);
2. operations where a dragline is used to scoop buckets of sand and/or gravel from the river bed along a sand bar (those operations require site-specific pollution prevention practices and are therefore required to apply for an individual permit);
3. maintenance dredging of navigable waterways (that activity will be regulated under the Section 404 permit process);
4. facilities which discharge substances that are not addressed by pollution prevention plan requirements or would not be adequately regulated by the effluent limitations in this permit;
5. discharges that are mixed with other, non-covered discharge types unless those other discharges are in compliance with another LPDES permit;
6. discharges which have limits assigned to them in the Louisiana Water Quality Management Plan or by an approved Waste Load Allocation which are different from the limits contained in this permit;

7. discharges which are likely to have unauthorized adverse effects upon threatened or endangered species, or on the critical habitat for these species as determined in conjunction with the U.S. Fish and Wildlife Service (USFWS); (*Discharges into certain sensitive water bodies require coordination with the USFWS before being eligible for general permit coverage. The Guidance Document for Determining if Your Discharges Require Prior Coordination with the U.S. Fish and Wildlife Service attached to the NOI form gives details and instructions for initiating coordination with the USFWS.*)
8. discharges which adversely affect properties listed or eligible for listing in the National Register of Historic Places, unless they are in compliance with requirements of the National Historic Preservation Act and any necessary activities to avoid or minimize impacts have been coordinated with the Louisiana State Historic Preservation Officer (*for questions, the operator should contact the Section 106 Review Coordinator, Office of Cultural Development, P. O. Box 44247, Baton Rouge, LA 70804 or telephone (225) 342-8170*);
9. discharges of wastewater determined by this Office to present an environmental risk or potential risk of discharging pollutants other than is intended to be regulated by this permit;
10. discharges directly into a waterbody designated as an outstanding natural resource water, as defined in LAC 33:IX.1123.Table 3, except in accordance with LAC 33:IX.1119.C.4; and
11. discharges from operations classed as new sources or new discharges if the discharge will cause or contribute to the violation of water quality standards not addressed by the terms, conditions and schedules of this general permit (LAC 33:IX.2317.A.9).

At the discretion of this Office, coverage under this general permit **may not** be available to discharges:

1. from facilities not in compliance with a previously issued individual or general wastewater discharge permit;
2. from facilities which have previously been in violation of state water quality regulations;
3. from facilities which are located in an environmentally sensitive area;
4. into water bodies designated by the State pursuant to Section 303(d) of the Clean Water Act;
5. into water that are likely to contain threatened or endangered species; or
6. from facilities which owe any outstanding fees or fines to the Department.

V. DISCHARGE LOCATION (LAC 33:IX.6519.A.1)

Within the geographic boundaries of the State of Louisiana.

VI. RECEIVING STREAM/USES (LAC 33:IX.6519.A.2)

The general permit covers discharges to any waterbody within the geographic boundaries of the State of Louisiana, as defined in LAC 33:IX.1123 and LAC 33:IX.2313. However, each individual facility covered under the general permit will only be allowed to discharge to the specific waterbody identified in that facility's Notice of Intent that is submitted for permit coverage.

The possible designated uses of the receiving streams are:

- Primary Contact Recreation
- Secondary Contact Recreation
- Propagation of Fish and Wildlife
- Oyster Propagation
- Drinking Water Supply
- Agriculture
- Outstanding Natural Resource Waters
- Limited Aquatic Life and Wildlife Use

VII. PROPOSED EFFLUENT LIMITATIONS AND/OR CONDITIONS

The specific effluent limitations and/or conditions will be found in the draft permit. Development of permit limits is detailed in the Draft Permit Rationale section below.

VIII. DRAFT PERMIT RATIONALE (LAC 33:IX.3111.B.4, LAC 33:IX.3305.B.1.d)

The following section sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The proposed effluent limitations and/or conditions are a continuation of those implemented in the Final LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials (LAG490000), issued effective October 1, 2004.

A. TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITIONS

Two types of technology-based effluent limitations must be included in this general permit. With regard to conventional pollutants, CWA Section 301(b)(1)(E) requires effluent limitations based on best conventional pollution control technology (BCT). With regard to nonconventional and toxic pollutants, CWA Section 301(b)(2)(A), (C), and (D) requires effluent limitations based on best available pollution control technology economically achievable (BAT). BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. Until such guidelines are published, however, CWA Section 402(a)(1) requires that appropriate BCT and BAT effluent limitations be determined using best professional judgment (BPJ). National guidelines have not been established for BCT and BAT for Construction Sand and Gravel, and Industrial Sand Categories; however BPT guidelines for Construction Sand and Gravel and Industrial Sand categories are found at 40 CFR 436 Subparts C and D, respectively.

State BPT guidelines are found at LAC 33:IX.705.E. The State BPT guidelines mirror the federal guidelines found at 40 CFR 436 Subparts C and D, except for the Turbidity NTU and the Oil & Grease discharge limitations in 705.E, which are state requirements only.

Narrative requirements contained in *Other Conditions*, Section F of the permit are based on LAC 33:IX.705.D.

40 CFR 436.32 establishes BPT for Construction Sand and Gravel activities as a pH of 6.0 – 9.0.

40 CFR 436.42 establishes BPT for discharges from mining and processing of sand and gravel for uses other than construction and fill. Examples of uses of sand and gravel other than construction and fill include, but are not limited to, glass-making, molding, abrasives, filtration, refractories, and refractory bonding. Facilities that produce industrial grade sand for such activities have guidelines established as pH 6.0 – 9.0, TSS of "Maximum for any 1 day" as 45 mg/l and TSS for "Average of daily value for 30 consecutive days shall not exceed" 25 mg/l.

Facilities that produce industrial grade sand are not eligible for coverage under this general permit because 40 CFR 436.42 establishes production based effluent limitations for discharges of TSS and Total fluoride from these facilities.

Since national BPT guidelines have been established, and national BCT and BAT standards have not been promulgated, for TSS and pH for discharges from facilities classified under the Construction Sand and Gravel, and Industrial Sand categories, the pH limitations and TSS limitations established in the permit are consistent with the BPT guidelines. National BPT guidelines did not establish limits for Oil and Grease or Turbidity NTU. Appropriate BCT and BAT limitations have been established for Oil and Grease and Turbidity NTU based on limitations established at LAC 33:IX.705.E.

Discharges of storm water and wastewaters from these facilities are non-continuous in nature. The determination of flow from these outfalls is derived by estimate of the flow. Because of this, in this permit effluent limitations for discharges that are intermittent or noncontinuous in nature will be in terms of daily maximum concentrations, as allowed by LAC 33:IX.2709.F.1 and 40 CFR 122.45.

This general permit will also regulate facilities with sanitary wastewater discharges totaling less than 5,000 gallons per day maximum expected flow. Sanitary wastewaters are regulated in accordance with LAC 33:IX.711 or 709.B and by BPJ utilizing the sanitary general permits issued by this Office. Concentration limits are used in accordance with LAC 33:IX.2709.F.1.b which states that mass limitations are not necessary when applicable standards and limitations are expressed in other units of measurement. LAC 33:IX.709.B references LAC 33:IX.711 which expresses BOD₅ and TSS in terms of concentration.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS AND CONDITIONS
(LAC 33:IX.3111.B.4)

1. GENERAL COMMENTS

Regulations promulgated at LAC 33:IX.2707.A/40 CFR Part 122.44(a) require technology-based effluent limitations to be placed in LPDES permits based on effluent limitations guidelines where applicable, on BPJ (best professional judgment) in the absence of guidelines, or on a combination of the two.

Discharges permitted under this general permit will be wastewater and storm water related to operations that extract, mine or dredge dirt, sand, gravel, shell and similar materials. The permit is intended to cover only

RLP 1 Outfall 001: process wastewater and process area storm water to designated scenic streams and their tributaries;

RLP 2 Outfall 002: process wastewater and process area storm water to primary contact recreation water bodies;

RLP 3 Outfall 003: process wastewater and process area storm water to receiving streams and their tributaries not designated as scenic streams or as primary contact recreation water bodies;

RLP 4 Outfall 004: treated sanitary wastewater (less than 5,000 GPD); and

RLP 5 Outfall 005: storm water runoff from auxiliary process areas. *(Auxiliary process area is defined as any area of the facility where precipitation and storm water come into contact with significant materials, including but not limited to, raw materials, by-products, overburden, stored materials, and fuels. This includes storm water discharges from haul roads, access roads, and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by products created by the facility. It also includes any area where land disturbance activities have occurred, such as the expansion of current extraction sites, active and inactive mining stages, and reclamation activities.)*

In addition, the following systems are regulated by this permit:

RLP 6 Outfall 006: process wastewater and process area storm water contained in "closed loop" or "no discharge" systems.

Facilities permitted as "closed loop" or "no discharge" systems are not allowed to discharge process wastewater or process area storm water from the site. These operations are included for regulation under the permit in order to confirm and monitor their continuing "no discharge" status.

At facilities operating as "closed loop" or "no discharge" systems, process wastewater and process area storm water are contained in pits on the site. The water level in a pit can be adjusted by rerouting water from pit to pit in a "closed loop". Waters in the pits infiltrate back into the ground and evaporate into the atmosphere. These processes help maintain low water levels in the pits at sites mining for sand and gravel.

The draft permit limits and conditions are equivalent to those in the current LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials (LAG490000), that was initially issued on September 7, 1999, and reissued on September 28, 2004. However, the proposed permit differs in several ways from the previous version of the permit (hereafter referred to as S&G 2004) that expires on September 30, 2009.

- (1) S&G 2004 was issued as a self-implementing general permit which afforded automatic permit coverage after specific eligibility requirements were met. The draft renewal permit does not automatically authorize a facility to discharge upon receipt of a complete and accurate NOI. Applicants will be authorized to discharge upon written notification from the Water Permits Division that the applicant has been accepted for coverage under the general permit.
- (2) Updated the following *Other Conditions* to match current requirements in recently issued LPDES permits:
 - (a) Removed the stipulations that sanitary wastewater cannot be reported as a commingled outfall;
 - (b) Expanded the section on 24-hour Oral Reporting requirements;
 - (c) Added Section Q - Flow Requirements.
- (3) Changed "Permits Division" to "Water Permits Division";
- (4) Updated the *Monitoring and Recordkeeping* requirements for the effluent characteristic, *Soaps and Detergents*;
- (5) Updated the *Monitoring and Recordkeeping* requirements for the effluent characteristic, *Visible Sheen*;
- (6) Clarified that permitted dischargers under the S&G 2004 version of the permit that expires on September 30, 2009, will be automatically covered under the reissued permit provided applicability conditions of the reissued permit are met;
- (7) Although NOIs submitted for coverage under a general permit have always undergone an extensive review to ascertain that the discharge is eligible for coverage under a general permit, the reissuance permit now includes specific language to describe instances where applicants for coverage under the permit

may be required to apply for individual LPDES permit coverage. Cases where an individual LPDES permit may be required are described in *Other Conditions*, Sections M and S;

- (8) Updated language in the permit to instruct permittees to use test methods prescribed in the latest approved 40 CFR 136 in order to ensure that they are using the most current and sensitive parameter-specific test methods;
- (9) Excludes coverage for proposed discharges into a waterbody designated as an ~~outstanding natural resource water, as defined in LAG 33:IX.1123 Table 3,~~ except in accordance with LAC 33:IX.1119.C.4; and
- (10) Includes the effluent limitations schedule RLP 6 Outfall 006 to regulate facilities that generate process wastewater and process area storm water but contain the water in a "closed loop" or "no discharge" system.

2. LIMITED PARAMETERS

a. **pH** - Best Conventional Pollutant Control Technology (BCT) based on Best Professional Judgment; LAC 33:IX.5905.C. Effluent limitation of 6.0 minimum to 9.0 maximum standard units will be included in this permit. As per LAC 33:IX.705.E.4, the effluent limitation of 5.0 minimum to 9.0 maximum is allowed for a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards authorize a lower pH. In no case shall a pH limitation outside the range of 5.0 to 9.0 be permitted. This effluent limitation was included in the previously issued LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials and previously issued individual LPDES permits. This effluent limitation can also be found in the EPA Region VI Storm Water Guidance Document and in previous individual and general permits issued by the Office of Environmental Services (formerly the Office of Water Resources).

b. **BOD₅** - Best Conventional Pollutant Control Technology (BCT) based on Best Professional Judgment; LAC 33:IX.711 and LAC 33:IX.5905.A. Based on LAC 33:IX.2709.D, an effluent limitation of 45 mg/l daily maximum BOD₅ is established in the permit. This effluent limitation was included as a weekly average limit in the previously issued LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials; the LPDES Class II General Sanitary Permits; previous individual and general permits issued by the Office of Environmental Services (formerly the Office of Water Resources).

c. **Oil & Grease** - Best Conventional Pollutant Control Technology based on Best Professional Judgment; the previously issued LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials; and previously issued individual LPDES permits. The traditional daily maximum BCT effluent limitation of 15 mg/l Oil & Grease is proposed based on LAC 33:IX.705.E. Under LAC 33:IX.1113.B.6, free or floating oil or grease shall not be allowed in quantities large enough to interfere with the designated uses, nor shall

emulsified oils be present in quantities large enough to interfere with the designated uses of a water body that has been designated as waters of the state.

d. **Total Suspended Solids (TSS)** - Best Conventional Pollutant Control Technology based on Best Professional Judgment (BPJ); TSS limitations for discharges from sand and gravel mining activities (RLP 1 Outfall 001, RLP 2 Outfall 002, and RLP 3 Outfall 003) are derived from LAC 33:IX.705.E and previously issued LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials. TSS limitations for treated sanitary wastewater (RLP 4 Outfall 004) are based on LAC 33:IX.711, LAC 33:IX.5905.B and LAC 33:IX.5911.B and are found in LPDES Class I and II General Sanitary Permits; LPDES General Permit for Discharges from Cement, Concrete, and Asphalt Facilities; previous individual and general permits issued by the Office of Environmental Services (formerly the Office of Water Resources). The following TSS effluent limitations are contained in the permit:

RLP 1 Outfall 001: 25 mg/l monthly average; 45 mg/l daily maximum
RLP 2 Outfall 002: 25 mg/l monthly average; 45 mg/l daily maximum
RLP 3 Outfall 003: 25 mg/l monthly average; 45 mg/l daily maximum
RLP 4 Outfall 004: 45 mg/l daily maximum

e. **Fecal coliform** – The fecal coliform limit has changed from weekly average to daily maximum as per LAC 33:IX.2709.D.

The permit establishes the Fecal coliform limitations to protect water quality commensurate with the most stringent designated use as described at LAC 33:IX.1113.C.5. The most stringent bacteria standards are established for water bodies that have been designated as Primary Contact Recreation water bodies. Discharges of treated sanitary wastewater are intermittent, therefore, the daily maximum limit of 400/100 mL is proposed as the fecal coliform limit in the permit. This limit is being proposed through Best Professional Judgment in order to ensure that the water quality standards are not exceeded in water bodies that are designated for Primary Contact Recreation. Existing facilities have demonstrated an ability to comply with this limitation using present available technology.

The BCT effluent limitations for fecal coliform which will be assigned to facilities located in areas which have oyster propagation as a designated use is a daily maximum limitation of 43 fecal colonies/100 mL, in accordance with LAC 33:IX.1113.C.5.d. This effluent limitation was included as the weekly average limitation in the previously issued LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials; and the LPDES General Permit for Discharges from Cement, Concrete and Asphalt Facilities. This is also the fecal coliform effluent limitation for sanitary wastewater in the LPDES Class I and II Sanitary General Permits and individual LPDES permits issued by the Office of Environmental Services (formerly the Office of Water Resources).

f. **Turbidity NTU** – The daily maximum effluent limitation of 25 NTU will be included in the permit for discharges of process wastewater and process area storm water to designated scenic streams and their tributaries and for discharges of process wastewater and process area storm water to primary contact recreation water bodies. In accordance with LAC 33:IX.705.B.1 a monthly average Turbidity limit of 15 NTU has been established in the permit for discharges of process wastewater and process area storm water to designated scenic streams.

In accordance with LAC 33:IX.1113 Turbidity (NTU) can vary in discharges to primary contact recreation water bodies according to the natural Turbidity (NTU) of the receiving water body.

Outfall 002, footnote 4 lists the daily maximum Turbidity (NTU) limit for discharges to specific receiving streams where the allowable Turbidity (NTU) is greater than 25 NTU, based on the natural NTU of the receiving water body.

Turbidity from regulated construction activities at facilities eligible for coverage under this general permit is not regulated under this general permit. Discharges from regulated construction activities must be appropriate authorized under with the LPDES Storm Water General Permit for Large Construction Activities (LAR100000) or the LPDES Storm Water General Permit for Small Construction Activities (LAR200000).

C. MONITORING FREQUENCIES FOR LIMITED PARAMETERS

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity (LAC 33:IX.2715/40 CFR 122.48(b)) and to assure compliance with permit limitations (LAC 33:IX.2707.I.1/40 CFR 122.44(I)(1)).

The monitoring frequencies assigned to each parameter in the draft permit are equivalent to the monitoring frequencies used in existing LPDES general permits and in individual LPDES permits issued by this Office.

Flow: 1/month for process wastewater and process area storm water discharges to designated scenic streams and their tributaries; process wastewater and process area storm water discharges to primary contact recreation water bodies; process wastewater and process area storm water discharges to receiving streams or their tributaries not designated as scenic streams or as primary contact recreation water bodies; and storm water runoff from auxiliary process areas; and 1/6 months for sanitary wastewater discharges (less than 5,000 GPD).

pH: 1/month for process wastewater and process area storm water discharges to designated scenic streams and their tributaries; process wastewater and process area storm water discharges to primary contact recreation water bodies; process wastewater and process area storm water discharges to receiving streams or their tributaries not designated as scenic streams or as primary contact recreation water bodies; and storm water runoff from auxiliary process areas; and 1/6 months for sanitary wastewater discharges (less than 5,000 GPD).

BOD₅: 1/6 months for sanitary wastewater discharges (less than 5,000 GPD).

Oil and Grease: 1/month for process wastewater and process area storm water discharges to designated scenic streams and their tributaries; process wastewater and process area storm water discharges to primary contact recreation water bodies; process wastewater and process area storm water discharges to receiving streams or their tributaries not designated as scenic streams or as primary contact recreation water bodies.

TSS: 1/month for process wastewater and process area storm water discharges to designated scenic streams and their tributaries; process wastewater and process area storm water discharges to primary contact recreation water bodies; process wastewater and process area storm water discharges to receiving streams or their tributaries not designated as scenic streams or as primary contact recreation water bodies; and 1/6 months for sanitary wastewater discharges (less than 5,000 GPD).

Fecal Coliform: 1/6 months for sanitary wastewater discharges (less than 5,000 GPD).

Turbidity NTU: 1/month for process wastewater and process area storm water discharges to designated scenic streams and their tributaries; process wastewater and process area storm water discharges to primary contact recreation water bodies; and process wastewater and process area storm water discharges to receiving streams or their tributaries not designated as scenic streams or as primary contact recreation water bodies.

IX. PUBLIC NOTICES (LAC 33:IX.3111.B.6)

The public notice describes the procedures for the formulation of final determinations.

Upon publication of the public notice, a public comment period shall begin on the date of publication and last for at least 30 days thereafter. During this period, any interested person may submit written comments on the permit. Any interested person may also submit a written request for clarification of issues related to the content of the general permit or the permit issuance process. Interested persons may also submit written requests for notification of the final permit decision or to request a public hearing to clarify issues involved in the permit decision. A request for a public hearing shall state the nature of the issues proposed to be raised in the hearing. The public notice specifies that written comments and/or written requests shall be submitted to the LDEQ Public Participation Group and that written comments and/or written requests must be received by the Department by a specific deadline.

Public notice will be published in:

THE ADVOCATE of Baton Rouge
LAKE CHARLES AMERICAN PRESS
THE ADVERTISER of Lafayette
THE TIMES of Shreveport
THE TIMES PICAYUNE of New Orleans
THE NEWS-STAR of Monroe
THE TOWN TALK of Alexandria
THE COURIER of Houma

LDEQ Permits Public Notice Mailing List

LDEQ Permits Public Web Page at
<http://www3.deq.louisiana.gov/news/pubnotice/default.asp>.

The draft permit, NOI, and fact sheet will be available for review at the LDEQ Public Records Center, Room 127, 602 North 5th Street, Baton Rouge, Louisiana, during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays).

The Water Permits Division will send notification of the final permit decision to each person who has submitted written comments or a written request for notification of the final decision.

X. ENDANGERED SPECIES ACT

The proposed limitations on these discharges are sufficiently stringent to assure state water quality standards for both aquatic life and human health protection will be met for receiving stream throughout the state. The effluent limitations established in this permit mirror those found in the current permit that became effective on October 1, 2004.

The United States Fish and Wildlife Service (USFWS) issued a letter of no objection for the issuance of the current LPDES LAG490000 permit that expires September 30, 2009. The effluent limitations in this reissuance permit ensure protection of aquatic life and maintenance of the receiving water as an aquatic habitat.

In 2004, the USFWS concurred with our general determination and with our finding that adoption of the NOI procedures are appropriate to assure that authorization to discharge under this general permit is unlikely to adversely affect the conservation of threatened and endangered species in receiving water bodies throughout the state. Concurrence from the USFWS that the draft general permit adequately addresses impacts that discharges may have on endangered and/or threatened species will be obtained prior to permit issuance.

XI. HISTORICAL PRESERVATION ACT

An operator must be in compliance with the National Historic Preservation Act to be eligible for coverage under this general permit. Discharges may be authorized under this permit only if:

- (1) storm water discharges, allowable non-storm water discharges, and discharge-related activities do not affect a property that is listed or eligible for listing on the National Register of Historic Places, unless they are in compliance with requirements of the National Historic Preservation Act and any necessary activities to avoid or minimize impacts have been coordinated with the Louisiana State Historic Preservation Officer (SHPO); and
- (2) If applicable, the operator has obtained and is in compliance with a written agreement with the SHPO that outlines all measures that will undertaken to mitigate or prevent adverse effects to the historic property.

The state finds that adoption of the reissued permit is unlikely to have unauthorized adverse effects upon properties listed or eligible for listing in the National Register of Historic Places provided that permittees meet the above applicability requirements contained in the permit. The draft permit and fact sheet will be submitted to the State Historic Preservation Office for their comments and/or concurrence with the state's determination.

XII. FEES

At the time of proposed issuance, the annual maintenance and surveillance fee for site-specific coverage under this permit for individual sites will be \$660.00. A twenty percent surcharge (up to a maximum surcharge of \$150.00) will be added to the annual fee for individual sites located in the following basins: Atchafalaya River, Barataria, Lake Pontchartrain, Mississippi River, and Terrebonne. Monies collected through this surcharge are deposited in the Oyster Sanitation Fund, which is used to support molluscan sanitation efforts. The agency may adjust fee amounts at a later date by promulgation of same, in the Louisiana Administrative Code.

XIII. SCHEDULE OF COMPLIANCE

The permittee is to be in compliance with the permit limitations and conditions as of the date of coverage under the general permit.

XIV. STATE WATER QUALITY STANDARDS

Pursuant to the Louisiana Environmental Quality Act (LA. R.S. 30:2001, et seq.) and in conformity with the Clean Water Act the state of Louisiana has established "... water quality standards to prohibit, control, or abate water pollution."

Each NOI that is received by LDEQ to request general permit coverage undergoes an evaluation to ascertain that the subject facility or project can be adequately regulated by coverage under general permit LAG490000. The evaluation is conducted prior to issuing a general permit authorization number to the facility or project, and to confirm that the facility or project is eligible for coverage under the general permit. The evaluation includes, but is not limited to, assessing the reasonable potential for the discharge of pollutants from the facility to cause or contribute to a violation of water quality standards. The scientist who evaluates the NOI may request additional information from the applicant, and, if necessary the facility may be visited to clarify information and to confirm that the facility is eligible for general permit coverage. The scientist determines which LDEQ basin subsegment the facility discharges will enter, the route of the facility's discharges, the designated uses of the receiving water body, and the potential to impact threatened or endangered species that may exist in the basin subsegment, in order to confirm that the facility meets the eligibility requirements of the general permit prior to issuing a permit authorization number to the facility.

The proposed permit would require as an eligibility condition that covered discharges not cause or have the reasonable potential to cause or contribute to a violation of a state water quality standard. If a discharge is known to be doing such the operator must seek coverage under an alternative permit. Where a discharger is already operating under the permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of a state water quality standard, the permitting authority will notify the operator of such violation(s) and the permittee shall take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the pollution prevention plan. If violations remain or recur then coverage under the permit will be terminated. Compliance with this requirement does not preclude any enforcement activity as provided by the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.) for the underlying violation. A permit reopener clause is included in the permit.

Should any TMDLs and wasteload allocations which address these discharges be developed, implementation within the required time frames for application of these requirements will be completed. After a complete evaluation is conducted to assess the reasonable potential for the discharge of pollutants from the facility to cause or contribute to further violation of water quality standards for any known impairments, coverage under the general permit may be denied and regulation under an individual permit required if more stringent limitations than the limitations contained in the general permit are required for protection of the impaired receiving stream.

Where an approved or established TMDL has not specified a wasteload allocation (WLA) applicable to discharges covered by this general permit, but has not specifically excluded these discharges, it will generally be assumed that discharges from facilities permitted under this general permit are consistent with approved TMDLs.

Each NOI received to request authorization under this LPDES general permit will be evaluated by the Agency to assure any WLAs are met, and that in-stream standards will not be violated by the proposed discharges. Coverage under the general permit may be denied and regulation under an individual permit required if more stringent limitations than the limitations contained in the general permit are required for protection of a receiving stream.

In order to meet the assumptions and requirements of established or approved TMDLs, coverage under this general permit may be denied and regulation under an individual permit required. Facilities that discharge to a specific 303(d) listed impaired water body will not be eligible for coverage under this general permit if the TMDL for that particular water body specifically precludes discharges covered by this general permit, or where the discharge can be expected to cause or contribute to the water quality impairment addressed by the TMDL.

The general criteria and numerical criteria which make up the stream standards are provided in the "Louisiana Surface Water Quality Standards", (LAC 33:IX.11, amended as of September 1989, March 1991, April 1994, August 1994, July 1995, November 1996, October 1998, December 1999, March 2001, March 2002, August 2002, September 2003, July 2004, November 2004, April 2005, and May 2006).

For the purposes of assuring that state water quality standards are achieved, the following language is being included in the general permit (*Other Conditions*, Section O.1) along with a reopener clause (*Other Conditions*, Section H).

LAC 33:IX.1113 describes numerical and general criteria that apply to all discharges into waters of the State. Criteria are elements of the water quality regulations which set limitations on the permissible amounts of a substance or other characteristics of state waters. The General Criteria, as described in the Louisiana Administrative Code, limit discharges to maintain aesthetics, color, turbidity, the biologic and aquatic community integrity, and many other elements in the receiving waterbody. Any noncompliance with the General or Numerical Criteria is not authorized under this permit.

To comply with the requirements of LAC 33:IX.2317.A.9, this permit does not authorize any discharge from a facility which is classed as a new source or new discharge, as defined at LAC 33:IX.2313, if the discharge will cause or contribute to the violation of water quality standards. Discharges from facilities permitted under LPDES general permits typically consist of low volume flows, and

discharges that are intermittent in nature. This general permit is applicable to very specific types of facilities and allows very limited types of discharges that specifically occur at facilities that are eligible for coverage under this permit. The permit effluent limitations and other conditions are determined to be sufficient to assure protection to state waters. New source discharges or new discharges of wastewater from a facility whose discharges are in compliance with the general permit requirements should not adversely impact water quality of 303(d) listed impaired water bodies nor should they cause or contribute to the violation of state water quality standards in receiving water bodies throughout the state, including 303(d) impaired water bodies. Authorizing coverage under this general permit to a specific facility will not negatively impact the water quality of receiving streams because permitted facilities are required to be in compliance with the general permit requirements immediately upon coverage by the permit. In accordance with *Other Conditions*, Sections E, H and O.1 measures can be taken by the permitting authority to prohibit any discharge that is not protective of state water quality standards.

Discharges of wastewater and storm water from eligible facilities are relatively small flows and are generally non-continuous in nature. The experience which this Office has in permitting these discharges, and the absence of any identified adverse effects to the receiving water bodies for discharges under previously-issued permits, support the adequacy of continuing the previously applied conditions and effluent limitations to assure that water quality standards will be met, as supported in the following discussion and above in Item VII of this Fact Sheet.

The permit duplicates the parameters, limitations, and requirements found at LAC 33:IX.705.D and 705.3 and those contained in the LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials issued September 28, 2004, except for the following minor change: (1) Removed the stipulation that sanitary wastewater can not be reported as a combined outfall.

EPA Region VI concurred that the effluent limitations established in the 2004 permit ensured attainment of water quality standards. The state does not believe any water quality issues have developed that were not considered when the 2004 permit was prepared; therefore, that determination is still valid and these limitations are proposed for the reissued permit.

The parameters and limits contained in the draft permit will offer adequate protection to any streams listed on the LDEQ Section 303(d) List of Impaired Waterbodies. DO impacted streams will be adequately protected by the BOD₅ limitations included in the permit.

XV. FINAL DETERMINATION

The availability of an LPDES General Permit for Discharges Related to Extraction, Mining or Dredging of Dirt, Sand, Gravel, Shell and Similar Materials streamlines the permit process for certain sources that generate common types of wastewaters that can be effectively treated by common types of treatment systems, to meet the effluent limitations contained in the permit. LDEQ streamlines the permit process for low potential dischargers by utilizing a general permit to regulate discharges from facilities or operations with discharges related to extraction, mining or dredging of dirt, sand, gravel, shell and similar materials. Utilization of a general permit to permit these facilities and discharges allows the Department to devote more resources to issuing individual LPDES permits to industrial facilities with discharges that require more regulatory oversight while ensuring that discharges permitted under this general permit are protective of state water quality standards in receiving streams throughout the state.

This agency has determined that discharges covered by this general permit can be adequately treated by common types of treatment systems to meet the effluent limitations contained in the general permit. The resulting discharges that are in compliance with the permit limitations should not pose any reasonable potential to cause or contribute to any existing water quality or 303(d) listed impairment.

The effluent limitations and monitoring requirements of this permit are adequate to protect for the designated uses and water quality standards of Louisiana.

On the basis of preliminary staff review, the Department of Environmental Quality has made a tentative determination to reissue the permit for the discharges described above in Sections I and II.